

# HOUSE BILL No. 1693

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-6-9-4; IC 5-21-2-2; IC 8-1; IC 8-1.6.

**Synopsis:** State deregulation of telecommunications industry. Provides that after June 30, 2007, the utility regulatory commission (IURC) has jurisdiction over telecommunications carriers only to the extent that jurisdiction is: (1) expressly granted by state or federal law; or (2) necessary to administer a federal law for which responsibility has been delegated to the IURC. Eliminates the IURC's telecommunications jurisdiction concerning: (1) rates and charges for services; (2) depreciation schedules for carrier owned property; (3) service quality; and (4) financing arrangements or other carrier obligations. Retains the IURC's telecommunications jurisdiction concerning: (1) the enforcement of settlement agreements or alternative regulatory plans entered into before July 1, 2007; (2) dual party relay services for the hearing or speech impaired; (3) administration of the 211 dialing code for human services information; and (4) administration of universal service programs. Transfers all consumer protection duties with respect to telecommunications carriers to the division of consumer protection of the attorney general's office. Requires the general assembly to annually appropriate to the IURC and the division of consumer protection the amounts needed to fulfill their telecommunications duties. Eliminates the requirements for: (1) a public hearing; and (2) an IURC finding of public convenience and necessity; before the issuance of a certificate of territorial authority for telecommunications carriers. Requires the IURC to issue a certificate if a carrier's application is accurate, complete, and properly verified. Limits the IURC's jurisdiction with respect to carriers' interconnection duties. Makes conforming changes to the laws concerning rural telephone cooperatives. Repeals superseded statutes. Makes an appropriation.

**Effective:** Upon passage; July 1, 2007.

**Koch**

January 19, 2005, read first time and referred to Committee on Technology, Research and Development.



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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1693

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 4-6-9-4 IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The division has the  
following powers and duties:

(1) The power to investigate any written consumer complaint made by a nonmerchant arising from a transaction between a merchant as defined in the Uniform Commercial Code and a nonmerchant concerning sales, leases, assignments, awards by chance, or other dispositions of goods, services, or repairs, and intangibles to a person for purposes that are primarily personal, familial, household, charitable, or agricultural, or a solicitation to supply any of the above things. When a consumer trades in or sells a motor vehicle to another consumer or nonconsumer, ~~he the~~ **consumer** shall be deemed to be a nonconsumer and shall be subject to the provisions of this chapter. The division shall have no jurisdiction over matters concerning utilities subject to regulation by the utility regulatory commission or by an agency of the United States except that the provisions of subdivision (5)



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shall apply and except as provided in IC 8-1-29 **and IC 8-1.6-2-2.**

(2) For complaints filed after August 31, 1984, the duty to ascertain from the consumer whether the consumer consents to public disclosure by the division of the filing of the complaint, including the consumer's identity and telephone number, if any.

(3) The duty to notify the merchant of the nature of the complaint by written communication and request a written reply.

(4) Upon receipt of reply, the duty to act as mediator between the parties and attempt to resolve all complaints in a conciliatory manner. The director of the division and the attorney general have discretion whether to mediate complaints involving a de minimis amount of money.

(5) If no reply is received or if the parties are unable to resolve their differences, and no violation of federal or state statute or rule is indicated, the duty to provide the complainant with a copy of all correspondence relating to the matter.

(6) Whenever a violation of a state or federal law or administrative rule is indicated, the duty to forward to the appropriate state or federal agency a copy of the correspondence and request that the agency further investigate the complaint and report to the division upon the disposition of the complaint.

(7) The power to initiate and prosecute civil actions on behalf of the state whenever an agency to which a complaint has been forwarded fails to act upon the complaint within ten (10) working days after its referral, or whenever no state agency has jurisdiction over the subject matter of the complaint.

(b) All complaints and correspondence in the possession of the division under this chapter are confidential unless disclosure of a complaint or correspondence is:

- (1) requested by the person who filed the complaint;
- (2) consented to, in whole or in part, after August 31, 1984, by the person who filed the complaint;
- (3) in furtherance of an investigation by a law enforcement agency; or
- (4) necessary for the filing of an action by the attorney general under IC 24-5-0.5.

(c) Notwithstanding subsection (b), the division may publicly disclose information relating to the status of complaints under subsection (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7).

SECTION 2. IC 5-21-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The commission may:

- (1) employ qualified staff;

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- (2) engage in ongoing planning and development activities;
- (3) enter into and administer contracts, leases, and other agreements;
- (4) adopt bylaws and otherwise manage its internal affairs;
- (5) sue and be sued;
- (6) borrow funds under IC 5-21-4;
- (7) receive, hold, use, and dispose of property, other than real property and other than the intelenet system, in the name of the commission;
- (8) exercise any other power necessary or incident to carrying out this article; and
- (9) enter into a contract for sharing capacity and intelenet systems with an entity issued a certificate under ~~IC 8-1-2-88~~ **IC 8-1.6-3** by the utility regulatory commission as a local exchange telephone service provider for the delivery of telecommunication services or information technology services.

(b) The commission shall implement through the intelenet system a comprehensive statewide digital telecommunication system known as accessIndiana derived from a strategic planning process and coordinated through the commission by working with public agencies and private sector organizations to provide intelenet service.

(c) The commission shall enter into a competitively bid contract with a network manager to provide for the development, operation, maintenance, and expansion of electronic transactions with a public agency and electronic information access from a public agency.

SECTION 3. IC 8-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) "Public utility", as used in this chapter, means every corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the state for the:

- ~~(1) conveyance of telegraph or telephone messages;~~
- ~~(2)~~ **(1)** production, transmission, delivery, or furnishing of heat, light, water, or power; or
- ~~(3)~~ **(2)** collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that may acquire, own, or operate any of the foregoing facilities.

(b) "Municipal council", as used in this chapter, means the legislative body of any town or city in Indiana wherein the property of the public utility or any part thereof is located.

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(c) "Municipality", as used in this chapter, means any city or town of Indiana.

(d) "Rate", as used in this chapter, means every individual or joint rate, fare, toll, charge, rental, or other compensation of any utility or any two (2) or more such individual or joint rates, fares, tolls, charges, rentals, or other compensation of any utility or any schedule or tariff thereof, but nothing in this subsection shall give the commission any control, jurisdiction, or authority over the rate charged by a municipally owned utility except as in this chapter expressly provided.

(e) "Service" is used in this chapter in its broadest and most inclusive sense and includes not only the use or accommodation afforded consumers or patrons but also any product or commodity furnished by any public or other utility and the plant, equipment, apparatus, appliances, property, and facility employed by any public or other utility in performing any service or in furnishing any product or commodity and devoted to the purposes in which such public or other utility is engaged and to the use and accommodation of the public.

(f) "Commission", as used in this chapter, means the commission created by IC 8-1-1-2.

(g) "Utility", as used in this chapter, means every plant or equipment within the state used for:

~~(1) the conveyance of telegraph and telephone messages;~~

~~(2) (1) the production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to the public; or~~

~~(3) (2) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.~~

The term does not include a municipality that may acquire, own, or operate facilities for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste. A warehouse owned or operated by any person, firm, limited liability company, or corporation engaged in the business of operating a warehouse business for the storage of used household goods is not a public utility within the meaning of this chapter.

(h) "Municipally owned utility", as used in this chapter, includes every utility owned or operated by a municipality.

(i) "Indeterminate permit", as used in this chapter, means every grant, directly or indirectly from the state, to any corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, of power, right, or privilege to own, operate, manage, or control any plant

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or equipment, or any part of a plant or equipment, within this state, for the:

(1) production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to or for the public;

**or**

(2) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste; ~~or~~

~~(3) furnishing of facilities for the transmission of intelligence by electricity between points within this state;~~

which shall continue in force until such time as the municipality shall exercise its right to purchase, condemn, or otherwise acquire the property of such public utility, as provided in this chapter, or until it shall be otherwise terminated according to law.

SECTION 4. IC 8-1-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Every public utility, and every municipality, and every person, association, limited liability company, or corporation having tracks, conduits, subways, poles, or other equipment on, over, or under any street or highway shall for a reasonable compensation, permit the use of the same by any other public utility, **by any telecommunications carrier (as defined in IC 8-1.6-1-12)**, or by a municipality owning or operating a utility, whenever public convenience and necessity require such use, and such use will not result in irreparable injury to the owner or other users of such equipment, nor in any substantial detriment to the service to be rendered by such owners or other users. ~~Every public utility for the conveyance of telephone messages shall permit a physical connection or connections to be made, and telephone service to be furnished, before any telephone system operated by it; and the telephone toll line operated by another such public utility or between its toll line and the telephone system of another such public utility; or between its toll line and the toll line of another such public utility; or between its telephone system and the telephone system of another such public utility; whenever public convenience and necessity require such physical connection or connections and such physical connection or connections will not result in irreparable injury to the owner or other users of the facilities of such public utilities; nor in any substantial detriment to the service to be rendered by such public utilities.~~

(b) If any prospective consumers or patrons of any public utility for the production, transmission, delivery, or furnishing of light or power, living in territory outside of cities and towns, and within not to exceed one-half (1/2) mile of the transmission line of ~~such~~ **the** utility, shall

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1 agree to and shall construct and install the necessary equipment, in  
 2 compliance with plans and specifications prescribed by ~~such the~~ utility,  
 3 ~~such the~~ public utility shall permit the necessary physical connection  
 4 or connections to be made and service to be furnished to the person or  
 5 persons who have constructed and installed ~~such the necessary~~  
 6 equipment. The term "physical connection", as used in this section,  
 7 shall mean ~~such number of trunk lines or complete wire circuits and~~  
 8 connections as may be required to furnish reasonably adequate  
 9 telephone service between such public utilities.

10 ~~(b)~~ (c) In case of failure to agree upon: ~~such~~

11 (1) the terms and conditions of, or compensation for, the use  
 12 of equipment under subsection (a);

13 (2) the use of a customer's equipment or a public utility's  
 14 transmission lines under subsection (b), or the conditions or  
 15 compensations for ~~such that~~ use; or in case of failure to agree  
 16 upon ~~such~~

17 (3) the physical connection or connections between the  
 18 customer's equipment and the public utility's transmission  
 19 lines under subsection (b), or the terms and conditions upon  
 20 which the ~~same physical connection~~ shall be made;

21 any public utility, **any telecommunications carrier (as defined in**  
 22 **IC 8-1.6-1-12)**, or any person, association, limited liability company,  
 23 or corporation interested may apply to the commission ~~and to~~  
 24 **determine the matter.**

25 **(d) Subject to subsection (f), if, after investigation, the commission**  
 26 **shall ascertain determines** that public convenience and necessity  
 27 require ~~such the~~ use or ~~such~~ physical connections **proposed**, and that  
 28 ~~such the~~ use or ~~such~~ physical connection or connections would not  
 29 result in irreparable injury to the owner or other users of ~~such the~~  
 30 equipment or the facilities of ~~such public the owner or~~ utilities  
 31 **involved**, nor in any substantial detriment to the service to be rendered  
 32 by ~~such the~~ owner or ~~other public any~~ utilities, or other users of ~~such~~  
 33 **the** equipment or facilities, it shall by order:

34 (1) direct that ~~such the~~ use be permitted and prescribe reasonable  
 35 conditions and compensations for ~~such joint the~~ use **proposed**;  
 36 and

37 (2) **direct** that ~~such the necessary~~ physical connection or  
 38 connections be made and determine:

39 (A) how and within what time ~~such the~~ connection or  
 40 connections shall be made; and

41 (B) by whom the expense of making and maintaining ~~such the~~  
 42 connection or connections shall be paid.

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~~(c)~~ **Such (e) The use so ordered by the commission under subsection (d) shall be permitted by the owners or utilities involved and such the physical connection or connections so ordered shall be made. and such Subject to subsection (f), the conditions and compensation so prescribed by the commission for such the use ordered, and such the terms and conditions upon which such the physical connection or connections shall be are to be made, as so determined by the commission, shall be constitute the lawful conditions and compensations for such the use ordered and the lawful terms and conditions upon which such the physical connection or connections shall be made. to The terms, conditions, and compensations ordered by the commission shall be observed, followed, and paid by the parties involved, subject to recourse to the courts upon the complaint of any interested party as provided in sections 73 and 74 of this chapter and IC 8-1-3. and such statute IC 8-1-3, so far as applicable, shall apply to any action arising on such a complaint so made under this subsection. Any such order of the commission under subsection (d) may be from time to time revised by the commission upon application of any interested party or upon its the commission's own motion.**

**(f) In determining the terms and conditions of, and compensation for, any use:**

**(1) described in this section; and**

**(2) subject to federal law;**

**the commission shall comply with, and may not exceed, any requirements imposed by federal law.**

**SECTION 5. IC 8-1-2.6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) As used in this section, "telecommunications" has the meaning set forth in IC 8-1.6-1-11.**

~~(a)~~ **(b) A regulatory flexibility committee is established to monitor competition in the telephone telecommunications industry.**

~~(b)~~ **(c) The committee is composed of the members of a house standing committee selected by the speaker of the house of representatives and a senate standing committee selected by the president pro tempore of the senate. In selecting standing committees under this subsection, the speaker and president pro tempore shall determine which standing committee of the house of representatives and the senate, respectively, has subject matter jurisdiction that most closely relates to the electricity, gas, energy policy, and telecommunications jurisdiction of the regulatory flexibility committee. The chairpersons of the standing committees selected under this**

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subsection shall co-chair the regulatory flexibility committee.

~~(c)~~ **(d)** The commission shall, by July 1 of each year, prepare for presentation to the regulatory flexibility committee an analysis of the effects of competition on universal service and on pricing of all ~~telephone telecommunications~~ services ~~under the jurisdiction of the commission~~: **(as defined in IC 8-1.6-1-13) provided in Indiana, as determined by the commission from the record of certificates of territorial authority maintained under IC 8-1.6-3-8.**

~~(d)~~ **(e)** In addition to reviewing the commission report prepared under subsection ~~(c)~~; **(d)**, the regulatory flexibility committee shall also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

(1) The effects of competition in the ~~telephone telecommunications~~ industry and impact of competition on available subsidies used to maintain universal service.

(2) The status of modernization of the ~~public telephone network~~ **publicly available telecommunications infrastructure** in Indiana and the incentives required to further enhance this infrastructure.

(3) The effects on economic development and educational opportunities of ~~this the~~ modernization **described in subdivision (2).**

(4) The current ~~method~~ **methods** of regulating ~~telephone companies telecommunications carriers~~ **(as defined in IC 8-1.6-1-12), at both the federal and state levels, and the method's effectiveness of the methods.**

(5) The economic and social effectiveness of current ~~telephone telecommunications~~ service pricing.

(6) All other telecommunications issues the committee deems appropriate.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

~~(c)~~ **(f)** The regulatory flexibility committee shall meet on the call of the co-chairpersons to study telecommunications issues described in subsection ~~(d)~~; **(e)**. The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

SECTION 6. IC 8-1-2.8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. As used in this chapter, "local exchange ~~telephone company~~ **carrier**" or "LEC" means

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1 a company authorized by the commission to provide, among other  
 2 services, local exchange access service: **a local exchange carrier (as**  
 3 **defined in IC 8-1.6-1-8) that has a certificate of territorial**  
 4 **authority on file with the commission under IC 8-1.6-3.**

5 SECTION 7. IC 8-1-2.8-18 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. The articles of  
 7 incorporation of the InTRAC must provide the following:

8 (1) The name of the corporation shall be "Indiana Telephone  
 9 Relay Access Corporation for the Hearing and Speech Impaired".

10 (2) The sole purpose for which the InTRAC shall be organized  
 11 and operated is to provide at the lowest cost reasonably possible:

12 (A) on behalf of telephone companies and the citizens of  
 13 Indiana; and

14 (B) in conjunction with telephone companies;  
 15 adequate and dependable dual party relay services that may  
 16 include in appropriate circumstances in the sole discretion of the  
 17 InTRAC telecommunications devices to hearing impaired and  
 18 speech impaired persons within the territorial area that telephone  
 19 companies serve in a manner that meets or exceeds the  
 20 requirements of regulations prescribed by the FCC.

21 (3) The InTRAC must have authority to perform any lawful act  
 22 that is necessary, convenient, or expedient to accomplish the  
 23 purpose for which the InTRAC is formed.

24 (4) No part of the net earnings of the InTRAC may inure to the  
 25 benefit of any member, director, or officer of the InTRAC, nor  
 26 shall any member of the InTRAC receive any earnings from the  
 27 corporation except as follows:

28 (A) A member may be an independent contractor, a supplier,  
 29 a vendor, or an authorized agent of the InTRAC and may  
 30 receive fair and reasonable compensation for the member's  
 31 provision of goods or services.

32 (B) An officer may receive reasonable compensation for  
 33 services that the officer performs in the officer's capacity as an  
 34 officer of the InTRAC.

35 (C) A director may be reimbursed for expenses incurred by the  
 36 director in the performance of the director's duties.

37 (5) The InTRAC may not:

38 (A) make an advancement for services to be performed in the  
 39 future; or

40 (B) make a loan of money or property to any director or officer  
 41 of the corporation.

42 (6) No member, director, or officer of the InTRAC or any private

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individual may share in the distribution of any of the assets of the InTRAC upon its dissolution.

(7) If there is a dissolution of the InTRAC, any of the assets of the InTRAC available for distribution shall be distributed to a charity:

(A) selected by the board of directors of the InTRAC; and

(B) having a purpose that includes providing services to hearing impaired and speech impaired persons.

(8) The InTRAC shall have one (1) class of members consisting of those ~~telephone companies that are designated as authorized LECs by that have a certificate of territorial authority on file~~ with the commission **under IC 8-1.6-3.**

(9) Each member of the InTRAC shall serve as a member for as long as the commission finds that the member is a LEC. A member's:

(A) right to vote at meetings of the members of the InTRAC; and

(B) right, title, and interest in or to the corporation; cease on the termination of a member's membership.

(10) Each member present in person or by proxy at a meeting of the members of the InTRAC may cast one (1) vote upon each question voted upon at:

(A) all meetings of the members; and

(B) in any election of a director of the InTRAC.

(11) The board of directors of the InTRAC consists of seven (7) directors selected as follows:

(A) Six (6) directors elected by the members of the InTRAC.

(B) The director of the state office of deaf and hearing impaired services.

(12) The business, property, and affairs of the InTRAC are managed and controlled by the board of directors of the InTRAC.

SECTION 8. IC 8-1-2.8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. The InTRAC shall do the following:

(1) Establish, implement, and administer, in whole or in part, a statewide dual party relay service system. Any contract for the supply or operation of a dual party relay service system or for the supply of telecommunications devices shall be provided through a competitively selected vendor.

(2) Determine the terms and manner in which each LEC shall pay to the InTRAC the surcharge required under this chapter.

(3) Annually review the costs it incurred during prior periods, make reasonable projections of anticipated funding requirements

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for future periods, and file a report of the results of the review and projections with the commission by May 1 of each year.

(4) Annually employ an independent accounting firm to prepare audited financial statements for the end of each fiscal year of the InTRAC to consist of:

- (A) a balance sheet;
- (B) a statement of income; and
- (C) a statement of cash flow;

and file a copy of these financial statements with the commission before May 2 of each year.

(5) Enter into contracts with any telephone company ~~authorized by that has a certificate of territorial authority on file with the commission to provide services within Indiana under IC 8-1.6-3,~~ to provide dual party relay services for the telephone company, upon request by the telephone company. However, the InTRAC:

- (A) shall require reasonable compensation from the telephone company for the provision of these services;
- (B) is not required to contract with its members; and
- (C) shall provide dual party relay services to InTRAC members for no consideration other than the payment to the InTRAC of the surcharges collected by the member under this chapter.

(6) Send to each of its members and file with the governor and the general assembly before May 2 of each year an annual report that contains the following:

- (A) A description of the InTRAC's activities for the previous fiscal year.
- (B) A description and evaluation of the dual party relay services that the InTRAC provides.
- (C) A report of the volume of services the InTRAC provided during the previous fiscal year.
- (D) A copy of the financial statements that subdivision (4) requires.

A report filed under this subdivision with the general assembly must be in an electronic format under IC 5-14-6.

SECTION 9. IC 8-1-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Any person, firm, association, corporation, limited liability company, city, town, ~~or~~ public utility, **or telecommunications carrier (as defined in IC 8-1.6-1-12)** adversely affected by any final decision, ruling, or order of the commission may, within thirty (30) days from the date of entry of such decision, ruling, or order, appeal to the court of appeals of Indiana for errors of law

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under the same terms and conditions as govern appeals in ordinary civil actions, except as otherwise provided in this chapter and with the right in the losing party or parties in the court of appeals to apply to the supreme court for a petition to transfer the cause to said supreme court as in other cases. An assignment of errors that the decision, ruling, or order of the commission is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the decision, ruling, or order, and the sufficiency of the evidence to sustain the finding of facts upon which it was rendered.

SECTION 10. IC 8-1-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. Any person firm, association, corporation, limited liability company, city, town, ~~or~~ public utility, **or telecommunications carrier (as defined in IC 8-1.6-1-12)** may file with the clerk of the court a verified petition to be made a party appellant or appellee, which petition shall allege facts showing that the petitioner has a substantial interest in the determination of the action, and such petitioner shall be made a party appellant or appellee as its interest appears. Any party applicant, intervenor, or protestant in the proceedings had before the commission in the matter from which the appeal is taken shall be and have the rights of a party on appeal, upon the filing of a written appearance therein. But no party by ~~his~~ **the party's** appearance or petition to be made a party shall acquire the right to file a brief, the time for filing of which has expired prior to ~~his~~ **the party's** appearance.

SECTION 11. IC 8-1-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Within twenty (20) days after the entry or rendition of any final decision, ruling, or order of the commission, or within twenty (20) days after the entry or rendition of any determination of the commission upon a petition for rehearing duly filed pursuant to the rules of the commission, any person, firm, association, corporation, limited liability company, city, town, ~~or~~ public utility, **or telecommunications carrier (as defined in IC 8-1.6-1-12)** desiring to appeal the cause to the court of appeals shall file with the commission a written request for the record, and the commission shall order that a certified transcript be prepared, containing all pleadings and papers filed, notices given and entered of record, proceedings had, testimony taken, and orders entered.

(b) No extension of time shall be granted by the court of appeals for the filing of an assignment of errors and the transcript of the record, unless a showing be made that the written request for the record was duly filed within the time granted under this section.

SECTION 12. IC 8-1-3-6 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2007]: Sec. 6. **(a) As used in this section, "telecommunications carrier" has the meaning set forth in IC 8-1.6-1-12.**

**(b)** All rules, practices, installations, and services prescribed, approved, or required by the commission shall be in force and shall be prima facie reasonable unless finally found otherwise by the court of appeals or by the supreme court if the cause is transferred to and decided by that court. However, pending the appeal as in this chapter provided, any municipally owned utility, public utility, **telecommunications carrier (to the extent any rates of the carrier are subject to the jurisdiction of the commission)**, rural electric membership corporation, or rural telephone cooperative association whose rate or rates are affected by the decision, ruling, or order appealed from shall have the right to collect the rate or rates as fixed by said decision, ruling, or order, or the former rate, whichever is higher in amount, and such municipally owned utility, public utility, **telecommunications carrier, or corporation or association** shall refund the difference to each consumer or contract customer if such difference be not sustained upon appeal. However, pending the appeal as in this chapter provided, the court of appeals, upon good cause shown by verified petition, may authorize and permit, but not require, any common or contract carrier whose rate or rates are affected by the decision, ruling, or order appealed from, to collect the rate or rates published and in effect or the rate or rates sought to be put into effect, immediately prior to the commencement of the proceeding before the commission, subject to such provisions for bond or escrow as the court shall provide to protect the interest of all parties of record before the court.

SECTION 13. IC 8-1-6-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. **(a) As used in this section, "division" refers to the division of consumer protection of the office of the attorney general.**

**(b) The telecommunications carrier account is established in the state general fund to pay the expenses of:**

**(1) the commission in:**

**(A) administering IC 8-1.6;**

**(B) performing any duties described in IC 8-1.6-2-1(c); or**

**(C) performing any other duties lawfully assigned to the commission under state or federal law with respect to telecommunications carriers; and**

**(2) the division in performing any of the division's duties**

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under IC 8-1.6-2-2.

The commission shall administer the account.

(c) The account consists of the following:

(1) Amounts appropriated by the general assembly under subsection (e).

(2) Any funds received from the federal government for the commission's use in performing any duties lawfully assigned to the commission with respect to telecommunications carriers.

(d) All appropriations paid out of the account are subject to the prior approval of the general assembly, the governor, and the budget agency.

(e) There is annually appropriated to the commission and the division from the state general fund an amount not in excess of the respective annual expenses of the commission and the division described in subsection (b). The expenses described in subsection (b) shall be determined by totaling the annual telecommunications budgets, as approved by the governor and budget agency, for the commission and the division, plus any amount approved by the governor and the budget agency to be used for contingencies.

SECTION 14. IC 8-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The term "public utility", as used in this chapter, shall mean and embrace every corporation, company, cooperative organization of any kind, individual, association of individuals, their lessees, trustees, or receivers appointed by any court whatsoever that on or after March 15, 1969, may own, operate, manage, or control any plant or equipment within the state ~~for the conveyance of telegraph or telephone messages; or for the production, transmission, delivery, or furnishing of heat, light, water, or power or for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste, for service directly or indirectly to the public, but said term shall not include a municipality that may after March 14, 1969, acquire, own, or operate any of the foregoing facilities.~~

(b) The term "gross revenue", as used in this chapter, shall include all intrastate operating revenue received by a public utility ~~for the conveyance of telegraph or telephone messages or for the production, transmission, delivery, or furnishing of heat, light, water, or power or for the collection, treatment, purification, or disposal in any sanitary manner of liquid or solid waste, sewage, night soil, and industrial waste for service directly or indirectly to the public. Provided, however, that such term shall not include revenue derived by a public utility in the~~

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1 sale of public utility services, products, or commodities to another  
2 public or municipal utility for resale by the latter.

3 SECTION 15. IC 8-1-8-0.5 IS ADDED TO THE INDIANA CODE  
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
5 1, 2007]: **Sec. 0.5. This chapter applies to the following:**

6 (1) **A public utility (as defined in IC 8-1-2-1(a)).**

7 (2) **A telecommunications carrier (as defined in IC 8-1.6-1-12).**

8 SECTION 16. IC 8-1-8-1 IS AMENDED TO READ AS FOLLOWS  
9 [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A public utility **or**  
10 **telecommunications carrier**, except in cities of the third class,  
11 engaged in the production, transmission, delivery, or furnishing of heat,  
12 light, water, or power or for the collection, treatment, purification, and  
13 disposal in a sanitary manner of liquid and solid sewage or furnishing  
14 facilities for transmission of intelligence by electricity  
15 **telecommunications service (as defined in IC 8-1.6-1-13)** to towns  
16 and cities and to the public in general or for the furnishing of elevator  
17 or warehouse service, either directly or indirectly, to or for the public,  
18 for the purpose of enabling it to perform its functions, may appropriate  
19 and condemn lands of individuals and private corporations, or any  
20 easement in any lands, necessary to the carrying out of its objects,  
21 whether the same be for its building, structures, dams, line of poles,  
22 wires, mains, conduits, and pipelines, or right-of-way to accommodate  
23 railway siding or switch tracks connecting its plant or plants with the  
24 tracks of any common carrier, overflowage by backwater from its dams,  
25 waste, or sluiceways.

26 (b) However, within the limits of any incorporated town or city, the  
27 authority to appropriate does not:

28 (1) extend to lands situated in any city block in which more than  
29 fifty percent (50%) of the frontage is devoted to residence  
30 purposes;

31 (2) extend to common carriers engaged in the transportation of  
32 freight or passengers; or

33 (3) give to any public utility **or telecommunications carrier** any  
34 right or authority to:

35 (A) appropriate any land or easement within the corporate  
36 limits of any city for overflowage by backwater from any dam;

37 (B) appropriate or acquire any dam, race, or sluiceway existing  
38 on May 31, 1921, or any interest in either, except to use water  
39 for condensation purposes;

40 (C) appropriate or acquire any pipeline laid or contained  
41 within the limits of private property; or

42 (D) authorize any corporation developing hydroelectric power

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1 to unreasonably interfere with or disturb the natural flow of the  
 2 stream from which power may be derived. Lands or easements  
 3 in lands acquired by appropriation and condemnation shall be  
 4 held and enjoyed by the company for those purposes as though  
 5 the land or easement had been acquired by purchase.

6 (c) The appropriation and condemnation of lands and easements in  
 7 lands authorized by this section must be done under the terms and  
 8 conditions and in the manner prescribed by IC 32-24-1.

9 SECTION 17. IC 8-1-17-2 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Any number of  
 11 natural persons not less than eleven (11) may, by executing, filing, and  
 12 recording articles of incorporation, ~~as hereinafter provided~~ form a  
 13 cooperative corporation, not organized for pecuniary profit, for the  
 14 purpose of:

15 (1) if ~~such the~~ corporation ~~be is~~ local in its scope, promoting and  
 16 encouraging the fullest possible use of telephone ~~service~~ and  
 17 **other telecommunications services** in the state ~~Indiana~~ by  
 18 making telephone ~~service~~ and **other telecommunications**  
 19 **services** and educational services incident to ~~telephone service~~  
 20 **those services** available to inhabitants of rural areas of the state  
 21 **Indiana** at the lowest cost consistent with sound economy and  
 22 prudent management of the business of the cooperative  
 23 corporation; or

24 (2) if ~~such the~~ corporation ~~be is~~ general in its scope, furnishing  
 25 engineering, financial, accounting, ~~and/or or~~ educational services  
 26 incident to telephone ~~service~~: **or other telecommunications**  
 27 **services.**

28 SECTION 18. IC 8-1-17-2.1 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.1. (a) If the  
 30 requirements of subsection (b) are met, a local cooperative telephone  
 31 corporation formed under Acts 1935, c.157 is considered to have been  
 32 formed under this chapter and is subject to its requirements and not the  
 33 requirements of IC 23-7-1.1 (before its repeal August 1, 1991) or  
 34 IC 23-17.

35 (b) A local cooperative telephone corporation described in  
 36 subsection (a) shall amend its articles of incorporation in accordance  
 37 with IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17 to  
 38 conform to the requirements of this chapter and shall submit a copy of  
 39 its amended articles to the commission for ~~approval~~: **review under**  
 40 **section 23 of this chapter.** After ~~examining~~ **reviewing** the amended  
 41 articles **under section 23 of this chapter**, the commission shall  
 42 approve the amended articles if ~~they conform to the requirements~~

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1 **according to the procedures set forth in section 23** of this chapter.  
 2 ~~The commission may approve the amended articles without conducting~~  
 3 ~~a hearing.~~ The secretary of state may not issue a certificate of  
 4 amendment before the commission **approves issues an order**  
 5 **approving** the amended articles under ~~this subsection.~~ **section 23(c)(2)**  
 6 **of this chapter.**

7 (c) **Subject to section 23(b) of this chapter,** the certificate of  
 8 public convenience and necessity or certificate of territorial authority  
 9 previously issued to a local cooperative telephone corporation  
 10 described in subsection (a) shall serve as the certificate required under  
 11 section 6 of this chapter **(before its repeal) or under IC 8-1.6-3.**

12 (d) Subsection (a) applies to a local telephone cooperative  
 13 corporation as of the date the secretary of state issues a certificate of  
 14 amendment under IC 23-7-1.1-26 (before its repeal August 1, 1991) or  
 15 IC 23-17-17.

16 (e) The local cooperative telephone corporation shall record the  
 17 amended articles of incorporation in the county where the local  
 18 cooperative telephone corporation has its principal office.

19 SECTION 19. IC 8-1-17-3 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this  
 21 chapter, the following terms have the following meanings unless a  
 22 different meaning clearly appears from the context:

23 (1) "Acquire" means to obtain by construction, purchase, lease,  
 24 devise, gift, eminent domain, or by any other lawful means.

25 (2) "Board" means the board of directors of a cooperative  
 26 corporation.

27 (3) "Cooperative corporation" means a corporation formed under  
 28 this chapter.

29 (4) "General cooperative corporation" means a cooperative  
 30 corporation formed to render services to local cooperative  
 31 corporations.

32 (5) "Improve" includes construct, reconstruct, extend, enlarge,  
 33 alter, better, or repair.

34 (6) "Local cooperative corporation" means a cooperative  
 35 corporation formed to render telephone services within Indiana.

36 (7) "Member" includes each individual signing the articles of  
 37 incorporation of a cooperative corporation and each person  
 38 admitted to membership of the cooperative corporation under law  
 39 or the corporation's bylaws.

40 (8) "Obligations" includes negotiable bonds, notes, debentures,  
 41 interim certificates or receipts, and other evidences of  
 42 indebtedness, either issued or the payment of which is assumed

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by a cooperative corporation.

(9) "Person" or "inhabitant" includes an individual, a firm, an association, a corporation, a limited liability company, a business trust, and a partnership.

(10) "Service" or "services", when not accompanied by the word "telephone" or **"telecommunications"**, means construction, engineering, financial, accounting, or educational services incidental to telephone ~~service~~: or other **telecommunications services**.

(11) "System" includes any plant, works, system, facilities, or properties, together with all parts of and appurtenances to the plant, works, system, facilities, or properties, used or useful in telephone ~~service~~: or other **telecommunications services**.

**(12) "Telecommunications service" has the meaning set forth in IC 8-1.6-1-13.**

~~(12)~~ (13) "Telephone company" means an individual, a firm, an association, a corporation, or a partnership owning, leasing, or operating any lines, facilities, or systems used in the furnishing of telephone service within Indiana.

~~(13)~~ **(14) "Telecommunications facilities"** includes all buildings, plants, works, structures, improvements, fixtures, apparatus, materials, supplies, machinery, tools, implements, poles, posts, crossarms, conduits, ducts, underground or overhead lines, wires, cables, exchanges, switches, desks, testboards, frames, racks, motors, generators, batteries, and other items of central office equipment, paystations, protectors, instruments, connections, and appliances, office furniture and equipment, work equipment, and all other property used in connection with the provision of telephone ~~service~~: and other **telecommunications services**.

~~(14)~~ (15) "Telephone service" means that service provided by a telephone cooperative corporation whereby the transmission of intelligence between at least two (2) points through the use of electricity is the intended use. The term includes all ~~telephone~~ **telecommunications** facilities or systems used in the rendition of the service.

SECTION 20. IC 8-1-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The articles of incorporation shall be entitled and endorsed "Articles of Incorporation of \_\_\_\_\_" (the blank space to be filled in with the name of the corporation) and shall state:

(1) The name of the cooperative corporation, which shall ~~be such~~

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as to distinguish it from any other corporation, and a statement whether it is to be a general or a local cooperative corporation.

(2) A statement of the county or counties within which its operations are to be conducted. If it is a local cooperative corporation, the rural area or areas in which its operations are to be conducted shall be further described. ~~and limited from time to time by certificate issued by the commission.~~

(3) Location of its principal office and post office address.

(4) The maximum number of directors, not less than three (3).

(5) The names and post office addresses of the directors who ~~are to~~ **will** manage the affairs of the cooperative corporation for the first year of its existence or until their successors are chosen.

(6) The period, if any, limited for the duration of the cooperative corporation or a statement that the duration of the cooperative corporation is to be perpetual.

(7) The terms and conditions upon which members of the corporation shall be admitted.

(8) The articles of incorporation of a cooperative corporation may contain also any provision:

(A) not contrary to law which the incorporators may desire for the regulation of ~~its~~ **the corporation's** business and the conduct of ~~its~~ **the corporation's** affairs; and ~~any provisions~~

(B) creating, defining, limiting, or regulating the powers of the cooperative corporation, its directors, and members.

SECTION 21. IC 8-1-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The individuals executing the articles of incorporation of a local cooperative corporation shall be residents of the area in which the operations of the cooperative corporation are to be conducted and shall be persons desirous of using telephone ~~service~~ **or other telecommunications services** to be furnished by the cooperative corporation.

(b) The individuals executing the articles of incorporation of a general cooperative corporation shall be members or prospective members of one (1) or more local cooperative corporations which are prospective members of ~~such~~ **the** general cooperative corporation.

(c) The articles shall be executed in at least six (6) originals and shall be acknowledged by the subscribers before an officer authorized by law to take acknowledgments of deeds. When so acknowledged, three (3) originals of ~~said~~ **the** articles shall be submitted to the commission. At the time the articles of incorporation are filed, ~~a petition~~ **an application for a certificate of territorial authority under IC 8-1.6-3** shall be filed with the commission ~~which petition if~~

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1 the applicant will operate as a local cooperative corporation. The  
 2 application shall be executed by one (1) or more of the individuals  
 3 executing the said articles of incorporation and shall pray the  
 4 commission to grant a certificate of public convenience and necessity  
 5 for the organization and operation of the proposed cooperative  
 6 corporation: **comply with the requirements of IC 8-1.6-3-1.**

7 (d) Upon the submission receipt of such any articles to, and filing  
 8 of such petition with, of incorporation and application for a  
 9 certificate of territorial authority under subsection (c), the  
 10 commission it shall set the said petition for public hearing and give  
 11 notice of the time, place and purpose thereof by publication in at least  
 12 one (1) newspaper printed and published in each of the counties in  
 13 which the said cooperative corporation proposed to operate. The  
 14 publication shall be at least ten (10) days prior to the date set for said  
 15 hearing. The cost of such publication shall be paid by the petitioners at  
 16 or before the time of such hearing: **conduct the review required**  
 17 **under IC 8-1.6-3-3.** If it be the applicant is a local cooperative  
 18 corporation, in addition to such published notice the commission shall  
 19 give written notice, by United States registered mail, of the time, place  
 20 and purpose of such hearing; **filing of the application** to each  
 21 telephone company facilities based local exchange carrier operating  
 22 in territory contiguous to the area in which the respective cooperative  
 23 corporation proposed **proposes** to render telephone service: **or other**  
 24 **telecommunications services.** The commission shall keep maps or  
 25 records from which it can readily ascertain which telephone companies  
 26 should receive notice as last provided; and information so available  
 27 shall be used in the mailing of the aforesaid notices: **use the record**  
 28 **maintained by the commission under IC 8-1.6-3-8 to determine**  
 29 **which facilities based local exchange carriers are entitled to notice**  
 30 **under this subsection.**

31 (e) Any interested person may appear at such hearing; either in  
 32 person or by attorney; and support or oppose the prayer of said petition.  
 33 If the commission, after hearing the evidence introduced at said  
 34 conducting the review required by IC 8-1.6-3-3 and any hearing  
 35 shall enter a finding that the convenience and necessity of the public  
 36 proposed to be served in the territory in which the operations of the  
 37 cooperative corporation are proposed to be conducted either will or will  
 38 not be served by the organization and operation of the proposed  
 39 cooperative corporation. If such finding be in the affirmative; **allowed**  
 40 **under IC 8-1.6-3-4, determines that the applicant meets the**  
 41 **requirements for the issuance of a certificate of territorial**  
 42 **authority under IC 8-1.6-3-3, the commission shall:**

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(1) issue a certificate of territorial authority under IC 8-1.6-3;  
and

(2) enter an order approving the organization of ~~such~~ the cooperative corporation and the proposed articles of incorporation.

(f) If the said finding be in the negative, the commission, after conducting the review required by IC 8-1.6-3-3 and any hearing allowed under IC 8-1.6-3-4, determines that the applicant does not meet the requirements for the issuance of a certificate of territorial authority under IC 8-1.6-3-3, the commission shall: ~~enter an order denying the approval of said articles of incorporation:~~

(1) request the applicant to provide additional information; or

(2) notify the applicant of the applicant's right to:

(A) appeal the commission's determination under IC 8-1-3;  
or

(B) file another application at a later date, without prejudice;

under IC 8-1.6-3-3.

~~(f)~~ (g) If the commission approves the ~~said~~ articles of incorporation as provided in under subsection (e), the cooperative corporation shall submit the following documents, along with two (2) copies of each, to the secretary of state for filing:

(1) One (1) of the original articles of incorporation together with an attached executed by the corporation under subsection (c).

(2) A certified copy of the order of the commission ~~shall be proffered in triplicate to the secretary of state for filing in his office. After~~ under subsection (e)(2).

(3) A certified copy of the certificate of territorial authority issued by the commission under subsection (e)(1).

If the secretary of state finds ~~said~~ articles and order determines that the documents described in subdivisions (1) through (3) comply with law, ~~he~~ the secretary of state shall forthwith endorse his approval ~~thereon~~ the documents and file one (1) set of ~~such~~ articles and order the documents in ~~his~~ the secretary of state's office and deliver the other two (2) sets, ~~thereof~~, endorsed with ~~his~~ the secretary of state's approval, endorsed ~~thereon~~, to the incorporators. The incorporators shall record one (1) of the approved ~~originals~~ original or certified copies of said articles with attached certified copy of the commission's order documents in the office of the recorder of the county in which the cooperative corporation has, or is to will have, its principal office.

~~(g)~~ (h) As soon as the provisions of this section have been complied with, the proposed cooperative corporation, described in the articles of

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incorporation ~~so~~ recorded **under subsection (g)**, under its designated name, ~~shall be~~ **is** a body corporate.

SECTION 22. IC 8-1-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) The corporate purpose of each local cooperative corporation shall be to render telephone ~~service or other telecommunications services~~ to its members and to ~~such~~ other persons in the specific instances ~~as~~ expressly ~~provided in~~ **authorized by** this chapter. ~~and no~~ A person ~~shall may not~~ become or remain a member of a cooperative corporation unless ~~such the~~ person ~~shall use~~ **uses the** telephone ~~service or other telecommunications services~~ supplied by ~~such the~~ cooperative corporation and ~~shall have complied~~ **complies** with the terms and conditions ~~in respect to~~ **of** membership contained in the bylaws of ~~such the~~ cooperative corporation.

(b) A local cooperative corporation is one formed under this chapter for the purpose of furnishing telephone ~~service or other telecommunications services~~ to its patrons.

SECTION 23. IC 8-1-17-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. Any cooperative corporation ~~to be~~ formed under this chapter shall be either a general cooperative corporation or a local cooperative corporation.

(a) A general cooperative corporation is one formed under this chapter for the purpose of furnishing engineering, financial, accounting, or educational services to its members or to persons expecting to form a local cooperative corporation, and having for its members only its incorporators or local cooperative corporations. ~~It shall~~ **A general cooperative corporation may** not render telephone ~~service or other telecommunications services~~ and the commission shall not ~~allocate to it any territory for such purpose:~~ **approve any certificate of territorial authority under IC 8-1.6-3 for those purposes.**

(b) A general cooperative corporation may be formed to have as members, and serve, local cooperative corporations in all, or certain named, counties of this state; ~~not including any county theretofore named as part of the territory to be served by another general cooperative corporation then organized and existing; unless such other general cooperative corporation duly consents in writing, filed with the commission, to such inclusion: in Indiana.~~

(c) A general cooperative corporation, before obtaining the approval of its articles of incorporation, must prove to the commission that it has written consent to its incorporation signed by or on behalf of:

(1) the local cooperative corporations then existing and

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1 contemplated to be members of the general cooperative  
2 corporation; and

3 (2) ~~the one (1) or more~~ incorporated agricultural ~~association or~~  
4 associations ~~including in its or their~~ **having as** members at least  
5 one-third (1/3) of the ~~members residing~~ **residents who:**

6 (A) **reside** in the territory in which the general cooperative  
7 proposes to operate; and

8 (B) **are** reasonably anticipated to become members of local  
9 cooperative corporations which will become members of ~~such~~  
10 **the** general cooperative corporation.

11 ~~Such~~ **The** signatures of ~~said the~~ local cooperative corporations and ~~of~~  
12 ~~such~~ agricultural associations **described in this subsection** shall be  
13 made by their respective presidents or vice presidents and secretaries  
14 or assistant secretaries and ~~shall must~~ be supported by certified copies  
15 of resolutions, **adopted by their boards of directors**, authorizing the  
16 ~~same and duly adopted by their boards of directors, respectively.~~  
17 **establishment of the general cooperative corporation.**

18 SECTION 24. IC 8-1-17-13 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. A cooperative  
20 corporation may do any and all acts or things necessary or convenient  
21 for carrying out the purpose for which it was formed, including the  
22 following:

23 (1) To sue and be sued.

24 (2) To have a seal and alter the same at pleasure.

25 (3) To acquire, hold, and dispose of property, real and personal,  
26 tangible and intangible, or any interest in the property and to pay  
27 in cash or credit, and to secure and procure payment of all or any  
28 part of the purchase price on the terms and conditions as the  
29 board shall determine.

30 (4) If it is a local cooperative corporation, to furnish, improve, and  
31 expand telephone ~~service~~ **and other telecommunications**  
32 **services** to its members, to governmental agencies and political  
33 subdivisions, and to other persons.

34 (5) If it is a local cooperative corporation, to construct, purchase,  
35 lease as lessee, or otherwise acquire, and to improve, expand,  
36 install, equip, maintain, and operate, and to sell, assign, convey,  
37 lease as lessor, mortgage, pledge, or otherwise dispose of or  
38 encumber ~~telephone~~ **telecommunications** facilities or systems,  
39 lands, buildings, structures, plants and equipment, exchanges, and  
40 any other real or personal property, tangible or intangible which  
41 ~~shall be deemed~~ **is** necessary or appropriate to accomplish the  
42 purpose for which the local cooperative corporation is organized.

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(6) To cease doing business and to dissolve and surrender its corporate franchise.

(7) If it is a local cooperative corporation, to construct, operate, and maintain its ~~telephone~~ **telecommunications** facilities across or along any street or public highway, or over lands that are the property of this state or a political subdivision of the state. Before ~~telephone~~ **telecommunications** facilities are constructed across or along a highway in the state highway system, the local cooperative corporation shall first obtain the permit of the Indiana department of transportation to do so, and the location and setting of the ~~telephone~~ **telecommunications** facilities shall be approved by and subject to the supervision of the Indiana department of transportation. Before ~~telephone~~ **telecommunications** facilities are constructed on or across land belonging to the state, the local cooperative corporation shall first obtain the permit of the department of state having charge of the lands to do so, and the location and setting of the ~~telephone~~ **telecommunications** facilities shall be approved by and subject to the supervision of the department. The ~~telephone~~ **telecommunications** facilities shall be erected and maintained so as not to interfere with the use and maintenance of the streets, highways, and lands, and no pole or appliance shall be located so as to interfere with the ingress or egress from any premises on the street or highway. Nothing in this section contained shall deprive the body having charge of the street or highway of the right to require the relocation of any pole or appliance which may affect the proper use of the street or highway for public travel, for drainage, or for the repair, construction, or reconstruction of the street or highway. The local cooperative corporation shall restore the street, highway, or lands to ~~its~~ **their** former condition or state as near as may be and shall not use the same in a manner to impair unnecessarily ~~its~~ **their** usefulness or to injure the property of others.

(8) To accept gifts or grants of property, real or personal, from any person, municipality, or federal agency and to accept voluntary and uncompensated services.

(9) If it is a local cooperative corporation, to connect and interconnect its ~~telephone~~ **telecommunications** facilities or systems with other ~~telephone~~ **telecommunications** facilities or systems. A connection or interconnection shall be in a manner and according to specifications as will avoid interference with or hazards to existing ~~telephone~~ **telecommunications** facilities or systems.

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(10) To issue membership certificates.

(11) To borrow money and otherwise contract indebtedness, and to issue or guarantee notes, bonds, and other evidences of indebtedness and to secure the payment thereof by mortgage, pledge, or deed of trust of, or any other encumbrance upon, any or all of its then owned or after-acquired real or personal property, assets, franchises, or revenues.

(12) To make any and all contracts necessary or convenient for the full exercise of the powers in this chapter granted, including, without limiting the generality of the foregoing, contracts with any person, federal agency, municipality, or other corporation for the interconnection of telephone service; for the management and conduct of the business of the cooperative corporation; **and** for the fixing of the rates, fees, or charges for service rendered or to be rendered by the local cooperative corporation. ~~subject to the approval of the commission as to all rates, fees, or charges for telephone service in the same manner and to the same extent as is provided by law for the regulation of rates, fees, or charges of telephone companies.~~

(13) To levy and collect reasonable fees, rents, tolls, and other charges for telephone ~~service or other telecommunications services~~ rendered. ~~subject to the approval of the commission as provided in this section.~~

(14) If it is a local cooperative corporation, to exercise the right of eminent domain in the manner provided by ~~law for the exercise thereof by telephone companies.~~ **IC 8-1-8.**

(15) To adopt, amend, and repeal bylaws.

(16) If it is a local cooperative corporation, to become a member of a general cooperative corporation and if it is a general cooperative corporation, to have local cooperative corporations as its members.

(17) To recover, after a period of two (2) years, any unclaimed stocks, dividends, capital credits, patronage refunds, utility deposits, membership fees, account balances, or book equities for which the owner cannot be found and are the result of distributable savings of the corporation returned to the members on a pro rata basis pursuant to section 20 of this chapter.

SECTION 25. IC 8-1-17-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. ~~No~~ **A** local cooperative corporation may **not** sell, lease, exchange, mortgage, pledge, or otherwise sell all, or substantially all, of its property unless the ~~same shall be~~ **transaction is** authorized by a resolution duly

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adopted at a meeting of ~~its the corporation's~~ members duly called and held as provided in section 9 of this chapter. ~~which~~ **The resolution shall have received must receive** the affirmative vote of at least three-fourths (3/4) of ~~its the corporation's~~ members who are present at ~~such the~~ meeting and the affirmative vote of at least three-fourths (3/4) of ~~its the corporation's~~ directors who are present at a meeting of ~~its the~~ board of directors duly called and held as provided in ~~its the corporation's~~ bylaws. ~~and subject to the approval of the commission as provided by law applicable to a similar transaction by a public utility.~~

SECTION 26. IC 8-1-17-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) ~~Subject to the approval of the commission~~ A cooperative corporation shall have power and is hereby authorized, from time to time, to issue its obligations for any corporate purpose. ~~Said~~ **The** obligations may be authorized by resolution or resolutions of the board, and may bear such date or dates, mature at such time or times, not exceeding forty (40) years from their respective dates, bear interest at any rate, payable semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, not exceeding the principal amount ~~thereof of the obligations~~ plus accrued interest, as ~~such the board's~~ resolution or resolutions may provide.

(b) ~~Such~~ **The** obligations may be sold in such manner and upon such terms as the board may determine at not less than the principal amount ~~thereof of the obligations~~ plus accrued interest.

(c) Any provision of law to the contrary notwithstanding, any obligations and ~~the related~~ interest coupons, ~~appertaining thereto~~; if any, issued pursuant to this act shall possess all the qualities of negotiable instruments. ~~however~~; The commission's approval shall not be required for the issuance by a cooperative corporation of its bonds, notes, or other evidences of indebtedness. ~~which are:~~

- (1) ~~payable in less than one (1) year from date of execution~~; and
- (2) ~~in the aggregate do not exceed ten per cent (10%) of its net plant account.~~

SECTION 27. IC 8-1-17-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) Any two (2) or more cooperative corporations created under the provisions of this chapter and operating or authorized to operate in contiguous territory may enter into an agreement for the consolidation of ~~such the~~ cooperative corporations, which agreement shall be submitted for the

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~~approval~~ review of the commission in the manner provided for in section 5 of this chapter. ~~Such~~ **The** agreement shall set forth the terms and conditions of the consolidation, the name of the proposed consolidated cooperative corporation, the number of its directors, not less than three (3), the time of the annual election, and the names of the persons, not less than three (3), to be directors until the first annual meeting. Each ~~such~~ cooperative corporation **participating in the consolidation** shall duly call and hold a meeting of its members, as provided in section 9 of this chapter, at which the proposal of ~~such~~ **the** consolidation shall be presented. If at each ~~such~~ meeting, the ~~aforesaid~~ **consolidation** agreement is approved by a resolution duly adopted and receiving the affirmative vote of at least three-fourths (3/4) of the members ~~of the respective cooperative corporation~~, who attend ~~such~~ **each** meeting, the directors named in the agreement shall subscribe and acknowledge articles conforming substantially to the original articles of incorporation. ~~except that it~~ **The new articles** shall be entitled and endorsed "Articles of Consolidation of \_\_\_\_\_" (the blank space being filled in with the names of the cooperative corporations being consolidated) and ~~shall~~ **must** state:

- (1) the names of the cooperative corporations being consolidated;
- (2) the name of the consolidated cooperative corporation;
- (3) a statement that each consolidating cooperative corporation agrees to the consolidation;
- (4) the names and addresses of the directors of the new cooperative corporation; and
- (5) the terms and conditions of the consolidation and the mode of carrying the ~~same~~ **consolidation** into effect, including the manner in which members of the consolidating cooperative corporations may or shall become members of the new cooperative corporation.

~~and~~ **The new articles of incorporation** may contain any provisions not inconsistent with this chapter ~~deemed that are~~ necessary or advisable for the conduct of the business of the new cooperative corporation.

(b) ~~If~~ **After** the commission approves the ~~said~~ articles of consolidation ~~such~~ **under section 5 of this chapter**, the articles of consolidation or a certified copy or copies ~~thereof of the articles~~ shall be filed, together with the attached copy of the order of the commission **under section 5(e)(2) of this chapter**, in the same place as original articles of incorporation. ~~and thereupon~~ **Upon the filings required under section 5(g) of this chapter**, the proposed consolidated cooperative corporation, under its designated name, ~~shall be and constitute~~ **is** a body corporate with all the powers of a cooperative

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1 corporation as originally formed under this chapter. ~~If the commission~~  
 2 ~~does not approve the said articles of consolidation, permission for such~~  
 3 ~~consolidation shall be denied by the commission.~~

4 SECTION 28. IC 8-1-17-19 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) In case of a  
 6 consolidation, the existence of the consolidating cooperative  
 7 corporations shall cease and the articles of consolidation ~~shall be~~  
 8 **deemed to be are considered** the articles of incorporation of the new  
 9 cooperative corporation.

10 (b) All rights, privileges, immunities, and franchises and all  
 11 property, real and personal, including without limitation applications  
 12 for membership, all debts due on whatever account and all other choses  
 13 in action, of each of the consolidating cooperative corporations ~~shall be~~  
 14 **deemed to be are** transferred to and vested in the new cooperative  
 15 corporation without further act or deed.

16 (c) The new cooperative corporation shall be responsible and liable  
 17 for all the liabilities and obligations of each of the consolidating  
 18 cooperative corporations. Any claim existing or action or proceeding  
 19 pending by or against any of the consolidating cooperative corporations  
 20 may be prosecuted as if the consolidation had not taken place but the  
 21 new cooperative corporation may be instituted in its place.

22 (d) The new cooperative corporation ~~shall be authorized to may~~  
 23 operate in all the areas in which the consolidating cooperative  
 24 corporations ~~shall have been were~~ authorized to operate ~~and shall not~~  
 25 **be authorized to under a certificate of territorial authority issued**  
 26 **under IC 8-1.6-3. Before the new corporation may** operate in any  
 27 other area, ~~until or unless so authorized by it shall submit to the~~  
 28 **commission:**

29 (1) **an application for a new certificate of public convenience**  
 30 **and necessity issued by the commission as provided in section 6**  
 31 **of this chapter: territorial authority under IC 8-1.6-3; or**

32 (2) **a notice of change under IC 8-1.6-3-7(7), as allowed by the**  
 33 **commission.**

34 (e) ~~Neither~~ The rights of creditors ~~nor and~~ any liens upon the  
 35 property of any ~~such consolidating~~ cooperative corporations shall **not**  
 36 be impaired by ~~such consolidations: the consolidation.~~

37 SECTION 29. IC 8-1-17-20 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) A local  
 39 cooperative corporation shall be required to furnish reasonably  
 40 adequate telephone **or other telecommunications** services and  
 41 facilities. The charge made by any local cooperative corporation for  
 42 any service rendered or to be rendered, either directly or in connection

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1 ~~therewith, with the service~~, shall be nondiscriminatory, reasonable,  
 2 and just, and every discriminatory, unjust, or unreasonable charge for  
 3 telephone ~~service or other telecommunications services~~ is prohibited  
 4 and declared unlawful. A reasonable and just charge for telephone  
 5 ~~service or other telecommunications services~~ within the meaning of  
 6 this section shall be ~~such those~~ charges ~~as shall that~~ produce sufficient  
 7 revenue to pay all legal and other necessary expense incident to the  
 8 operation of the local cooperative corporation's system, ~~to include, but~~  
 9 ~~not limited to, including~~ maintenance costs, operating charges, upkeep,  
 10 repairs, interest charges on bonds or other obligations, to provide a  
 11 sinking fund for the liquidation of bonds or other evidences of  
 12 indebtedness, to provide adequate funds to be used as working capital,  
 13 as well as funds for making extensions and replacements, and also for  
 14 the payment of any taxes that may be assessed against ~~such the~~  
 15 cooperative corporation or its property. ~~it being the intent and purpose~~  
 16 ~~hereof that such~~ Charges **described in this section** shall produce an  
 17 income sufficient to maintain ~~such the~~ local cooperative corporation's  
 18 property in sound physical and financial condition to render adequate  
 19 and efficient service. Any rate too low to meet ~~the foregoing these~~  
 20 requirements shall be unlawful. Revenues and receipts not needed for  
 21 the ~~above and foregoing~~ purposes **described in this section**, or not  
 22 needed in reserves for ~~such those~~ purposes, shall be returned to the  
 23 patrons on a pro rata basis according to the amounts paid by them for  
 24 telephone ~~service; such returns or other telecommunications services~~.  
 25 **Amounts returned under this section** shall be either in cash or in  
 26 abatement of current charges for telephone ~~service, or other~~  
 27 **telecommunications services**, as the board may decide.

28 (b) As used in ~~subsections (d) and (e); subsection (d)~~, "financial  
 29 assistance" means:

- 30 (1) a loan or loan guarantee; or
- 31 (2) a lien accommodation provided to secure a loan made by  
 32 another lender;

33 including but not limited to loans made by the Rural Electrification  
 34 Administration of the United States Department of Agriculture (REA)  
 35 or by the Rural Telephone Bank.

36 (c) As used in ~~subsections (d) and (e); subsection (d)~~, "REA  
 37 borrower" means a corporation created under this chapter that is the  
 38 recipient of financial assistance.

39 (d) In determining rates under this section, ~~once the commission~~  
 40 ~~determines that property of an REA borrower is reasonably necessary~~  
 41 ~~for the provision of telephone service and has been placed in service;~~  
 42 ~~the commission shall approve rates to be charged by the an REA~~

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borrower **must charge rates** sufficient to enable the REA borrower to:

- (1) satisfy its reasonable expenses and obligations; and
- (2) repay the full amount of any financial assistance and the interest thereon.

(e) So long as there remains any unpaid portion of any financial assistance associated with the property of an REA borrower determined under subsection (d) to be reasonably necessary and placed in service, the rates of the REA borrower shall be set at a level sufficient to repay the financial assistance regardless of any change in the regulatory status of the property, including, without limitation, the full or partial retirement of the property or any other change in the status of the property as reasonably necessary or used and useful.

SECTION 30. IC 8-1-17-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) A cooperative corporation may amend its articles of incorporation to change its corporate name, to increase or reduce the number of its directors, or to change any other provisions therein; **provided, that set forth in the articles. However,** any change of location of the principal office **may** shall be effected in the manner set forth in section 24 of this chapter. **and further provided that no cooperative corporation shall amend its articles of incorporation to embody therein any purpose, power, or provision which would not be authorized if its original articles of incorporation, including such additional or changed purpose, power, or provision, were offered for filing at the time articles under this section are offered. Such An amendment under this section may be accomplished by filing articles of amendment, which along with any notice of change required under IC 8-1.6-3-7, with the commission. The articles of amendment shall be entitled and endorsed "Articles of Amendment of \_\_\_\_\_" (the blank space being filled in with the name of the cooperative corporation) and state: must include the following:**

- (1) The name of the cooperative corporation, and if it has been changed, the name under which it was originally incorporated.
- (2) The date of filing the articles of incorporation in each public office where filed.
- (3) Whether the statement of counties within which **its the corporation's** operations are to be conducted is to be changed, and if so **the a** new statement of **such the** counties **in which the corporation will operate.**
- (4) **The officer executing such articles of amendment shall make and annex thereto An affidavit, signed by the officer executing the articles of amendment,** stating that the provisions of this

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section in respect to the amendment set forth in such articles were complied with.

(b) ~~Such~~ **The amended** articles shall be subscribed in the name of the cooperative corporation by the appropriate officers of the cooperative corporation, who shall make and annex an affidavit stating that they have been authorized to execute and file ~~such the amended~~ articles by a resolution duly adopted at a meeting of the cooperative corporation duly called and held as provided in section 9 of this chapter. If by any ~~such~~ amendment to ~~the~~ articles of incorporation, the territory proposed to be served by the cooperative corporation is to be increased or decreased, ~~the articles of amendment, together with a petition executed by the appropriate officers of the cooperative corporation and praying for the permission of the commission shall be submitted~~ **submit** to the commission: ~~Thereupon,~~

(1) **an application for a new certificate of territorial authority under IC 8-1.6-3-1; or**

(2) **a notice of change under IC 8-1.6-3-7(7), as allowed by the commission.**

(c) **Upon receipt of an application or a notice of change under subsection (b), the commission shall set said petition for public hearing and shall give notice of the time and place thereof one (1) time in at least one (1) newspaper published in each of the counties in which lies any of the territory proposed to be added or omitted by such amendment; which publication shall be at least ten (10) days before such hearing. The cost of publication shall be paid by the petitioner when filing such petition. Also conduct the review required under IC 8-1.6-3-3. If the applicant is a local cooperative corporation, the commission shall give written notice of the time and place of such hearing shall be mailed proposed change in the corporation's territory to each telephone company facilities based local exchange carrier operating in contiguous territory in the manner provided in section 5 of this chapter. Any interested person may appear, personally or by attorney, at such hearing and aid or oppose the prayer of the petition. After such hearing, the commission shall grant or deny the petition and make its order accordingly. No If the commission, after conducting the review required by IC 8-1.6-3-3 and any hearing allowed under IC 8-1.6-3-4, determines that the amended articles and the application or notice of change under IC 8-1.6-3 are accurate, complete, and properly verified, the commission shall:**

(1) **issue a new or amended certificate under IC 8-1.6-3 that reflects the increase or decrease in the territory served by the corporation; and**

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(2) enter an order approving the amended articles of the cooperative corporation.

(d) If the commission, after conducting the review required by IC 8-1.6-3-3 and any hearing allowed under IC 8-1.6-3-4, determines that the amended articles or an application or notice of change under IC 8-1.6-3 are inaccurate, incomplete, or not properly verified, the commission shall:

(1) request the corporation to provide additional information; or

(2) notify the corporation of the corporation's right to:

(A) appeal the commission's determination under IC 8-1-3;

or

(B) file the amended articles or an application or notice of change under IC 8-1.6-3 at a later date, without prejudice; under IC 8-1.6-3-3.

(e) An amendment increasing or decreasing the territory to be served by ~~such a~~ cooperative corporation shall **not** be filed in the office of the secretary of state or of any county recorder unless there ~~be~~ is attached ~~thereto to the amendment~~ a certified copy of an order of the commission ~~consenting to such increase or decrease. Such~~ under subsection (c)(2). The amended articles shall be filed in the same places as the original articles of incorporation and ~~thereupon upon~~ **upon filing** the amendment shall be ~~deemed considered~~ to have been effected.

SECTION 31. IC 8-1-17-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. A cooperative corporation formed ~~hereunder~~ **under this chapter** may change the location of its principal office by filing in the office of the secretary of state a certificate reciting ~~such the~~ change of principal office and setting forth the resolution by its board of directors authorizing ~~such the~~ change and stating the time and place of its adoption. ~~which The~~ The certificate shall be executed and acknowledged by the appropriate officers of the cooperative corporation with the corporate seal attached and attested by the appropriate officer of the cooperative corporation. **The cooperative corporation shall also notify the commission of the change as required under IC 8-1.6-3-7(3).**

SECTION 32. IC 8-1-17-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 25. (a) Any cooperative corporation may dissolve by filing in the office of the secretary of state articles of dissolution ~~which shall be~~ entitled and endorsed "Articles of Dissolution of \_\_\_\_\_" (the blank space being filled in with the name of the cooperative corporation). ~~and The articles of dissolution~~

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shall state **the following:**

(1) The name of the cooperative corporation, and if ~~such the~~ cooperative corporation is a corporation resulting from ~~the a~~ consolidation as provided in this chapter, the names of the original cooperative corporations.

(2) The date of filing of the articles of incorporation in the office of secretary of state and, if ~~such the~~ cooperative corporation is a corporation resulting from a consolidation as provided in this chapter, the dates on which the articles of incorporation of the original cooperative corporations were filed in the office of secretary of state.

(3) That the cooperative corporation elects to dissolve.

(4) The name and post office address of each of its directors, and the name, title, and post office address of each of its officers.

~~Such~~ **The** articles shall be subscribed and acknowledged by the appropriate officers of the cooperative corporation who shall make and annex an affidavit stating that they have been authorized to execute and file ~~such the~~ articles by a resolution duly adopted by the members of the cooperative corporation at a meeting ~~thereof~~ duly called and held as provided in section 9 of this chapter. Articles of dissolution or a certified copy or copies ~~thereof of the articles~~ shall be filed in the same places as original articles of incorporation. ~~and thereupon~~ **If the dissolving corporation is a local cooperative corporation, any certificate of territorial authority issued under IC 8-1.6-3 shall be relinquished, and the appropriate officers of the corporation shall notify the commission of the relinquishment under IC 8-1.6-3-7(5).**

**(b) Upon the filings required by subsection (a), the cooperative corporation shall be deemed to be considered dissolved. ~~Such~~ However, the cooperative corporation shall continue for the purpose of paying, satisfying, and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business affairs, and may sue and be sued in its corporate name. Any assets remaining after all liabilities and obligations of the cooperative corporation have been satisfied and discharged shall be refunded pro rata to the patrons, their assignees, personal representatives, heirs, or legatees, who ~~shall~~ have paid for telephone ~~service~~ or other telecommunications services rendered by the cooperative corporation within ~~a the~~ five (5) year period ~~next immediately~~ preceding ~~such the~~ dissolution. Any assets not ~~so~~ refunded within ~~a the~~ two (2) year period after ~~such the~~ dissolution is completed shall pass to and become the property of the state. ~~of Indiana.~~**

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SECTION 33. IC 8-1-17-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) Any foreign corporation organized as a nonprofit corporation for the purpose of making telephone ~~service or other telecommunications services~~ available to the inhabitants of rural areas may be admitted to do business ~~within this state in Indiana~~ and shall have the same powers, restrictions, and liabilities as a cooperative corporation organized under this chapter. Whenever ~~such a~~ foreign corporation desires to be admitted to operate in ~~this state, Indiana~~, it shall file with the commission a petition in as many original counterparts as there are counties in Indiana, in which it requests permission to make telephone service available; plus five (5). Said petition shall describe the territory in Indiana in which its operations are to be conducted and pray the commission to grant to it a certificate of public convenience and necessity for such operations. To each such original petition, there an **application for a certificate of territorial authority under IC 8-1.6-3. The appropriate officers of the corporation shall be attached attach to the application** a copy of the articles of incorporation of ~~said the~~ foreign corporation, ~~with and~~ all amendments ~~thereto, to the articles~~, duly authenticated by the proper officer of the state ~~wherein it in which the corporation~~ is incorporated. Upon the filing of such petition with the commission, **receipt of the application and the articles of incorporation**, the commission shall set the said petition for public hearing, and shall give notice of the time and place of such hearing by publication one (1) time in at least one (1) newspaper printed and published in each of the counties in which the said foreign corporation proposes to carry on its operations, which publication shall be had at least ten (10) days prior to the date set for such hearing; the cost of such publications to be paid by the petitioners at the time of filing said petition. **Also conduct the review required under IC 8-1.6-3-3. The commission shall give** written notice of the time and place of such hearing shall be ~~mailed the filing of the application~~ to each telephone company facilities based local exchange carrier operating in contiguous territory in the manner provided in section 5 of this chapter. Any interested person may appear at such hearing, either in person or by attorney, and support or oppose the prayer of said petition. The commission shall enter a finding that the convenience and necessity of the public proposed to be served in the Indiana territory in which the operations of the foreign corporation are proposed to be conducted either will or will not be served by such operations. If said finding be in the negative, the commission shall enter an order denying the petition. If such finding be in the

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1 ~~affirmative,~~

2 (b) If the commission, after conducting the review required by  
3 IC 8-1.6-3-3 and any hearing allowed under IC 8-1.6-3-4,  
4 determines that the foreign corporation meets the requirements for  
5 the issuance of a certificate of territorial authority under  
6 IC 8-1.6-3-3, the commission shall enter an order granting a certificate  
7 of ~~public convenience and necessity~~ territorial authority under  
8 IC 8-1.6-3 for the proposed operations of ~~said~~ the foreign corporation  
9 in Indiana and shall attach a copy of ~~said~~ the order, duly certified by  
10 the secretary of the commission, to each of the originals of ~~said~~  
11 petition, filed as aforesaid, except two (2), original application filed  
12 with the commission and deliver the same applications and orders  
13 to the petitioner.

14 (c) If the commission, after conducting the review required by  
15 IC 8-1.6-3-3 and any hearing allowed under IC 8-1.6-3-4,  
16 determines that the foreign corporation does not meet the  
17 requirements for the issuance of a certificate of territorial  
18 authority under IC 8-1.6-3-3, the commission shall:

19 (1) request the foreign corporation to provide additional  
20 information; or

21 (2) notify the foreign corporation of the foreign corporation's  
22 right to:

23 (A) appeal the commission's determination under IC 8-1-3;  
24 or

25 (B) file another application at a later date, without  
26 prejudice;

27 under IC 8-1.6-3-3.

28 (d) If the commission issues a certificate of territorial authority  
29 under subsection (b), the foreign corporation shall ~~then~~ present to the  
30 secretary of state of Indiana all ~~such~~ sets of authenticated ~~copy~~ copies  
31 of its articles of incorporation, the original ~~petitions~~, applications  
32 under IC 8-1.6-3, and the order of the commission under subsection  
33 (b), together with ~~such~~ any application for admission to do business in  
34 this state, if any, as Indiana that the secretary of state may require, and  
35 shall tender to the ~~said~~ secretary of state six dollars and fifty cents  
36 (\$6.50) to cover ~~his~~ the secretary of state's fees for filing, certificate  
37 and seal under this subsection. If the secretary of state ~~shall~~ approve  
38 approves the same, he documents submitted, the secretary of state  
39 shall endorse ~~his~~ the secretary of state's approval upon each of the  
40 aforesaid sets of documents, file one (1) thereof copy in ~~his~~ the  
41 secretary of state's office, return the remaining ~~ones~~ copies to the  
42 foreign corporation, and issue to it ~~his~~ the foreign corporation a

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1 certificate of admission to do business in ~~this state. Thereupon, and~~  
 2 **Indiana.** Before the foreign corporation ~~shall~~ **may** do any business in  
 3 ~~this state, Indiana,~~ it shall file in the office of the recorder of each  
 4 county in Indiana in which it ~~is to~~ **will** make telephone ~~service or other~~  
 5 **telecommunications services** available one (1) ~~of said sets set of the~~  
 6 documents bearing the approval of the secretary of state ~~endorsed~~  
 7 ~~thereon; under this subsection.~~

8 SECTION 34. IC 8-1-29-1.2 IS ADDED TO THE INDIANA CODE  
 9 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
 10 1, 2007]: **Sec. 1.2. As used in this chapter, "division" refers to the**  
 11 **division of consumer protection of the office of the attorney**  
 12 **general.**

13 SECTION 35. IC 8-1-29-2 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this  
 15 chapter, "telecommunications" means the electronic transmission;  
 16 between or among points specified by the user; of information of the  
 17 user's choosing; without change in the form or content of the  
 18 information sent and received. The term does not include commercial  
 19 mobile radio service (as defined in 47 U.S.C. 332); **has the meaning**  
 20 **set forth in IC 8-1.6-1-11.**

21 SECTION 36. IC 8-1-29-3 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this  
 23 chapter, "telecommunications ~~provider~~" means a person that provides  
 24 ~~telecommunications service; carrier~~ **" has the meaning set forth in**  
 25 **IC 8-1.6-1-12.**

26 SECTION 37. IC 8-1-29-4 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. As used in this  
 28 chapter, "telecommunications service" ~~means making~~  
 29 ~~telecommunications available to the public for a fee; has the meaning~~  
 30 **set forth in IC 8-1.6-1-13.**

31 SECTION 38. IC 8-1-29-5 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. A customer of a  
 33 telecommunications ~~provider carrier~~ may not be:

- 34 (1) switched to another telecommunications ~~provider carrier~~
- 35 unless the customer authorizes the switch; or
- 36 (2) billed for services by a telecommunications ~~provider carrier~~
- 37 that without the customer's authorization added the services to the
- 38 customer's service order.

39 SECTION 39. IC 8-1-29-5.5 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.5. A  
 41 telecommunications ~~provider carrier~~ may not submit a preferred  
 42 carrier change order unless the order has first been confirmed in

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1 accordance with one (1) of the following procedures:

2 (1) The telecommunications ~~provider~~ **carrier** has obtained the  
3 customer's written authorization through a letter of agency.

4 (2) The telecommunications ~~provider~~ **carrier** has obtained the  
5 customer's electronic authorization:

6 (A) to submit a preferred carrier change order; and

7 (B) placed from a telephone number on which the  
8 telecommunications service is to be changed.

9 A call to the telecommunications ~~provider~~ **carrier** under this  
10 subdivision must connect the customer to a voice response unit or  
11 a similar mechanism that records the required information  
12 regarding the preferred carrier change, including automatically  
13 recording the automatic number identification.

14 (3) An appropriately qualified and independent third party has  
15 obtained the customer's oral authorization to submit the preferred  
16 carrier change order. Such an authorization must confirm and  
17 include appropriate verification of the customer's identity.

18 (4) Any other procedure approved by the ~~commission~~ **division**.

19 SECTION 40. IC 8-1-29-6 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. **(a) Before July 1,**  
21 **2007,** the commission shall adopt rules under IC 4-22-2 to implement  
22 IC 8-1-29-5.5. The commission's rules shall ensure that a customer of  
23 a telecommunications ~~provider~~ **carrier** is not:

24 (1) switched to another telecommunications ~~provider~~ **carrier**  
25 without the customer's authorization; or

26 (2) billed for additional services by a telecommunications  
27 ~~provider~~ **carrier** that without the customer's authorization added  
28 the services to the customer's service order.

29 The rules adopted under this section must be consistent with rules  
30 adopted by the Federal Communications Commission concerning  
31 verification procedures for the switching of a customer's  
32 telecommunications ~~provider~~ **carrier**.

33 **(b) Rules adopted by the commission under subsection (a)**  
34 **before July 1, 2007, are considered, after June 30, 2007, rules of the**  
35 **division. After July 1, 2007, the division may adopt rules under**  
36 **IC 4-22-2 to implement section 5.5 of this chapter. Rules adopted**  
37 **by the division under this subsection are subject to the**  
38 **requirements for rules adopted under subsection (a).**

39 **(c) A rule originally adopted by the commission under**  
40 **subsection (a) expires on the earliest of:**

41 **(1) the expiration date stated by the commission in the rule;**

42 **(2) the date the rule expires under IC 4-22-2.5-2;**

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- (3) the date that the rule is amended, repealed, or superseded by a rule adopted by the division under subsection (b); or  
 (4) the date the rule is preempted or superseded by federal law.

SECTION 41. IC 8-1-29-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) **Before July 1, 2007**, a complaint may be filed with the commission by any of the following:

(1) A customer of a telecommunications ~~provider~~ **carrier** who has been:

(A) switched by one (1) telecommunications ~~provider~~ **carrier** to another telecommunications ~~provider~~ **carrier** without the customer's authorization; or

(B) billed for services by a telecommunications ~~provider~~ **carrier** that without the customer's authorization added the services to the customer's service order.

(2) A telecommunications ~~provider~~ **carrier** that has been removed as a customer's telecommunications ~~provider~~ **carrier** without the customer's authorization.

(3) The commission on its own motion.

(4) The office of the utility consumer counselor.

A hearing held on a complaint filed under this section must be consistent with IC 8-1-1-8.

(b) **After June 30, 2007**, a complaint may be filed with the division by:

- (1) any person described in subsection (a)(1) or (a)(2); or  
 (2) the division on its own motion.

(c) **After June 30, 2007**, the division has jurisdiction over a complaint filed with the commission under subsection (a) before July 1, 2007:

(1) that has not been heard and determined by the commission under section 7.5 of this chapter; or

(2) for which civil penalties imposed by the commission under section 7.5 of this chapter have not been collected;

including the authority to enforce the payment of any civil penalties imposed by the commission under section 7.5 of this chapter.

SECTION 42. IC 8-1-29-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.5. (a) **Before July 1, 2007**, if after notice and hearing the commission finds that a telecommunications ~~provider~~ **carrier** has violated:

- (1) section 5 of this chapter; or

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(2) rules adopted under section 6 of this chapter;  
the commission may impose a civil penalty of not more than two thousand five hundred dollars (\$2,500) for each offense.

(b) The secretary of the commission shall deposit civil penalties collected under subsection (a) in the state general fund.

**(c) On July 1, 2007, the authority of the commission to conduct hearings and impose civil penalties is transferred to the division. The director of the division shall deposit civil penalties collected under this section in the state general fund.**

SECTION 43. IC 8-1-29-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. **(a) Before July 1, 2007**, the commission may refer a violation of section 5 of this chapter or rules adopted under section 6 of this chapter to the attorney general as a deceptive act. If a violation of section 5 of this chapter or rules adopted under section 6 of this chapter is referred to the attorney general as a deceptive act, the person who commits the violation commits a deceptive act that is actionable by the attorney general and the customer and is subject to the remedies and penalties under IC 24-5-0.5.

**(b) After June 30, 2007, the division may:**

**(1) treat a violation of section 5 of this chapter or rules adopted under section 6 of this chapter as a deceptive act under IC 24-5-0.5; and**

**(2) take any action that the attorney general is authorized to take under IC 24-5-0.5 with respect to the violation.**

SECTION 44. IC 8-1.6 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

#### **ARTICLE 1.6. TELECOMMUNICATIONS CARRIERS**

##### **Chapter 1. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. "Commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.**

**Sec. 3. "Competitive local exchange carrier" or "CLEC" means a local exchange carrier that:**

**(1) provides local exchange service to customers in the local access and transport area; and**

**(2) is not an incumbent local exchange carrier (as defined in 47 CFR 51.5).**

**Sec. 4. "Facilities based local exchange service" means a telecommunications service in which a local exchange carrier**

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provides local exchange service:

- (1) exclusively over facilities owned or leased by the carrier;
- or
- (2) predominantly over facilities owned or leased by the carrier, in combination with the resale of the telecommunications services of another carrier.

Sec. 5. "Information service" has the meaning set forth in 47 U.S.C. 153(20).

Sec. 6. "Interexchange carrier" means a telecommunications carrier that provides interLATA service (as defined in 47 U.S.C. 153(21)). The term includes a telecommunications carrier that provides:

- (1) interstate interLATA service;
- (2) intrastate interLATA service; or
- (3) services under both subdivisions (1) and (2).

Sec. 7. "Local access and transport area" or "LATA" has the meaning set forth in 47 U.S.C. 153(25).

Sec. 8. "Local exchange carrier" has the meaning set forth in 47 U.S.C. 153(26).

Sec. 9. "Local exchange service" means the provision of telephone exchange service (as defined in 47 U.S.C. 153(47)) or exchange access (as defined in 47 U.S.C. 153(16)), or both. The term includes:

- (1) facilities based local exchange service; and
- (2) the resale of facilities based local exchange service.

Sec. 10. "Tariff" means a public document, in written or electronic form, that sets forth the:

- (1) telecommunications services offered by a telecommunications carrier;
- (2) rates and charges with respect to the telecommunications services offered; and
- (3) rules, regulations, and requirements that apply to the telecommunications services offered.

Sec. 11. "Telecommunications" has the meaning set forth in 47 U.S.C. 153(43).

Sec. 12. "Telecommunications carrier" has the meaning set forth in 47 U.S.C. 153(44). The term includes the following:

- (1) A provider of commercial mobile radio service or "CMRS" (as defined in 47 CFR 51.5).
- (2) An interexchange carrier.
- (3) A local exchange carrier, including:
  - (A) an incumbent local exchange carrier (as defined in 47

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CFR 51.5); and

(B) a competitive local exchange carrier.

(4) A carrier that provides both telecommunications services and information services, to the extent of the carrier's provision of telecommunications services.

Sec. 13. "Telecommunications service" has the meaning set forth in 47 U.S.C. 153(46). The term includes the following:

(1) Advanced services (as defined in 47 CFR 51.5).

(2) Commercial mobile radio service or "CMRS" (as defined in 47 CFR 51.5).

(3) Exchange access (as defined in 47 U.S.C. 153(16)).

(4) InterLATA service (as defined in 47 U.S.C. 153(21)).

(5) Telephone exchange service (as defined in 47 U.S.C. 153(47)).

(6) Telephone toll service (as defined in 47 U.S.C. 153(48)).

## Chapter 2. Commission Jurisdiction

Sec. 1. (a) After June 30, 2007, the commission has jurisdiction over a telecommunications carrier only to the extent that jurisdiction is:

(1) expressly granted by state or federal law, including:

(A) a state or federal statute;

(B) a lawful order or regulation of the Federal Communications Commission; or

(C) an order or a ruling of a state or federal court having jurisdiction; or

(2) necessary to administer a federal law for which regulatory responsibility has been delegated to the commission by federal law.

(b) After June 30, 2007, the commission does not have jurisdiction over any of the following with respect to a telecommunications carrier:

(1) Rates and charges for telecommunications services provided by the telecommunications carrier, including the filing of schedules or tariffs setting forth the telecommunications carrier's rates and charges.

(2) Depreciation schedules for any of the classes of property owned by the telecommunications carrier.

(3) Quality of service provided by the telecommunications carrier.

(4) Long term financing arrangements or other obligations of the telecommunications carrier.

(5) Any information services provided by the

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telecommunications carrier.

(6) Except as provided in:

(A) subsection (c);

(B) IC 8-1.6-3; and

(C) IC 8-1.6-4;

any other aspect regulated by the commission under this title before July 1, 2007.

(c) Notwithstanding subsection (b), after June 30, 2007, the commission shall continue to have authority to do the following:

(1) Enforce the terms of a settlement agreement or an alternative regulatory plan entered into between the commission and a telecommunications carrier before July 1, 2007. The commission's authority under this subdivision continues for the duration of the settlement agreement or alternative regulatory plan.

(2) Fulfill the commission's duties under IC 8-1-2.8 concerning the provision of dual party relay services to hearing impaired and speech impaired persons in Indiana.

(3) Fulfill the commission's duties under IC 8-1-19.5 concerning the administration of the 211 dialing code for telephone services providing access to human services information and referrals.

(4) Fulfill the commission's obligations under:

(A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and

(B) IC 20-10.1-25.6;

concerning universal service and access to telecommunications services and equipment by schools, libraries, and rural health care providers.

Sec. 2. On July 1, 2007, the:

(1) consumer protection responsibilities of the commission with respect to telecommunications carriers, including:

(A) the responsibilities of the commission's consumer affairs division to investigate and mediate disputes between customers and telecommunications carriers;

(B) the commission's responsibilities under IC 8-1-29;

(C) the commission's responsibilities to enforce service quality standards adopted by the commission under IC 4-22-2; and

(D) any consumer education activities performed by the commission; and

(2) responsibilities of the office of utility consumer counselor

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under IC 8-1-1.1 with respect to telecommunications carriers; shall be transferred to the division of consumer protection of the office of the attorney general to be carried out in accordance with the division's authority under IC 4-6-9, to the extent not preempted by federal law.

### Chapter 3. Certificates of Territorial Authority

Sec. 1. (a) Except as provided in subsection (c), before a telecommunications carrier may provide telecommunications services to customers in Indiana, the telecommunications carrier must apply to the commission for a certificate of territorial authority. A telecommunications carrier that seeks a certificate under this chapter shall submit an application on a form prescribed by the commission. The form prescribed by the commission must require the telecommunications carrier to report the following information, to the extent the information is not exempt from public disclosure under IC 5-14-3-4(a):

- (1) The carrier's legal name and any name under which the carrier does or will do business in Indiana, as authorized by the secretary of state.
- (2) The carrier's address and telephone number, along with contact information for the person responsible for ongoing communications with the commission.
- (3) The legal name, address, and telephone number of the carrier's parent company, if any.
- (4) The boundaries of any territorial area in Indiana in which the carrier proposes to provide telecommunications services.
- (5) For each area identified under subdivision (4), a description of the telecommunications services that the carrier proposes to provide in the area.
- (6) Whether the services identified in subdivision (5) will be offered to residential customers or business customers, or both.
- (7) The expected date of deployment for each of the telecommunications services identified under subdivision (5) in each of the areas identified in subdivision (4).
- (8) A list of other states in which the carrier provides telecommunications services, including the type of services provided.
- (9) Any other information the commission considers necessary to:
  - (A) monitor the type and availability of telecommunications services provided to Indiana

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customers; and

(B) prepare the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4.

The commission may not charge a fee for filing an application under this section.

(b) A telecommunications carrier shall also submit, along with the application required by subsection (a), the following documents:

(1) A certification from the secretary of state authorizing the carrier to do business in Indiana.

(2) Information demonstrating the carrier's financial viability, to the extent the information does not constitute confidential financial information exempt from public disclosure under IC 5-14-3-4(a)(5).

(3) A statement, signed under penalty of perjury by an officer or other person authorized to bind the carrier, that states the carrier's agreement to do the following:

(A) Comply with any customer notification requirements imposed by the commission under section 6 of this chapter.

(B) Update the information provided in the application submitted under subsection (a) on a regular basis, as may be required by the commission under section 7 of this chapter.

(C) Notify the commission when the carrier commences offering service in each area identified in the carrier's application under subsection (a)(4).

(D) Pay to each facilities based local exchange carrier offering service in each area identified under subsection (a)(4) any lawful rate or charge required under any:

(i) applicable interconnection agreement; or

(ii) lawful tariff or order approved or issued by a regulatory body having jurisdiction.

(4) A statement, signed under penalty of perjury by an officer or other person authorized to bind the carrier, that attests to the carrier's financial, managerial, and technical ability to provide the telecommunications services for which it seeks a certificate under this chapter.

(c) If:

(1) a telecommunications carrier has been issued a:

(A) certificate of territorial authority; or

(B) certificate of public convenience and necessity;

by the commission before July 1, 2007; and

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(2) the certificate described in subdivision (1) is in effect on July 1, 2007;  
the telecommunications carrier is not required to submit an application under this section for as long as the certificate described in subdivision (1) remains in effect.

Sec. 2. A telecommunications carrier shall submit duplicate copies of the application and documents required by section 1 of this chapter to each of the following:

(1) The commission.

(2) The division of consumer protection of the office of the attorney general.

Sec. 3. Not later than thirty (30) days after receiving the application and documents required by section 1 of this chapter, the commission shall review the application and documents for accuracy and completeness. If the commission determines that the application and documents are accurate, complete, and properly verified, the commission shall issue a certificate of territorial authority recognizing the telecommunications carrier's authority to provide the telecommunications services identified in the application. If the commission determines that the application and documents are inaccurate or incomplete, or are not properly verified, the commission shall return the application and documents to the carrier with a brief statement of any additional information required. Not later than thirty (30) days after receipt of the request for additional information, the carrier may:

(1) provide the information requested;

(2) appeal the decision of the commission under IC 8-1-3; or

(3) decide to file another application at a later date, without prejudice.

Sec. 4. (a) A hearing is not required in connection with the issuance of a certificate under this chapter. However, the commission shall conduct a hearing, subject to the requirements for hearings under IC 8-1-2 for public utilities, upon the request of any of the following:

(1) The telecommunications carrier submitting the application.

(2) Any facilities based local exchange carrier offering service in an area identified under section 1(a)(4) of this chapter.

(3) The division of consumer protection of the office of the attorney general.

(4) The commission, on its own motion.

(b) A hearing conducted under this section shall be limited to

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consideration of one (1) or more of the following issues:

(1) Whether the application and documents submitted under section 1 of this chapter are accurate, complete, and properly verified.

(2) The telecommunications carrier's financial, managerial, and technical ability to provide the telecommunications services for which it seeks a certificate under this chapter.

(c) The commission may not require a:

(1) telecommunications carrier; or

(2) facilities based local exchange carrier offering service in an area identified under section 1(a)(4) of this chapter; to be represented by counsel at a hearing under this section.

Sec. 5. Subject to the notice requirements under section 7 of this chapter, a certificate issued under this chapter may be:

(1) sold, assigned, leased, or transferred by the holder to any telecommunications carrier to which a certificate of territorial authority may be lawfully issued under this chapter; or

(2) included in the property and rights encumbered under any indenture of mortgage or deed of trust of the holder.

Sec. 6. The commission may not require a telecommunications carrier to file a tariff in connection with, or as a condition of receiving, a certificate of territorial authority under this chapter. However, in connection with the issuance of a certificate under this chapter, the commission may require a telecommunications carrier to provide advance notice to the carrier's Indiana customers if the carrier will do any of the following:

(1) Change the rates and charges for any of the telecommunications services that the carrier offers in any of its service areas in Indiana.

(2) Offer new telecommunications services in any of its service areas in Indiana.

(3) Cease to offer telecommunications services that it currently offers in any of its service areas in Indiana.

The commission shall prescribe any customer notification requirements under this subsection in a rule of general application adopted under IC 4-22-2.

Sec. 7. In connection with, or as a condition of receiving, a certificate of territorial authority under this chapter, the commission may require a telecommunications carrier to notify the commission, after the issuance of a certificate, of any of the following changes involving the carrier or the certificate issued:

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(1) Any transaction:

(A) described in IC 8-1-2-83 or IC 8-1-2-84; and

(B) involving the telecommunications carrier.

(2) A change in the carrier's legal name or the adoption of, or change to, an assumed business name. The carrier shall submit to the commission a certified copy of the:

(A) amended certificate of authority; or

(B) certificate of assumed business name;

issued by the secretary of state to reflect the change.

(3) A change in the carrier's principal business address or in the name of the person authorized to receive notice on behalf of the carrier.

(4) Any sale, assignment, lease, or transfer of the certificate to another telecommunications carrier, as allowed by section 5 of this chapter. The carrier shall identify the other telecommunications carrier to which the sale, assignment, lease, or transfer is made.

(5) The relinquishment of any certificate issued under this chapter. The carrier shall identify:

(A) any other certificate of territorial authority issued under this chapter that will be retained by the carrier;

(B) the number of Indiana customers in the service area covered by the certificate being relinquished; and

(C) the method by which the carrier's customers were notified of the relinquishment.

(6) A change in the telecommunications services to be provided in one (1) or more of areas identified under section 1(a)(4) of this chapter in the carrier's original application for a certificate under this chapter. However, if new services will be provided in one (1) or more of the areas, the commission may require the carrier to submit a new application under section 1 of this chapter with respect to those services.

(7) A change in one (1) or more of the areas identified under section 1(a)(4) of this chapter that would increase or decrease the territory within the area. However, if the territory in an area will be increased, the commission may require the carrier to submit a new application under section 1 of this chapter with respect to that area.

The commission shall prescribe the time in which a carrier must report changes under this section. The commission may prescribe a form for the reporting of changes under this section.

**Sec. 8. The commission shall maintain a record of all certificates**

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of territorial authority issued under this chapter. The record must include all application forms, notices of change under section 7 of this chapter, and other documents filed with the commission under this chapter. The record must be made available:

(1) for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3; and

(2) electronically through the commission's website; to the extent the information in the record is not exempt from public disclosure under IC 5-14-3-4(a).

Sec. 9. A telecommunications carrier that holds a certificate issued under this chapter is exempt from local franchises and related fees to the same extent as a telecommunications carrier that holds a certificate of territorial authority or an indeterminate permit issued under IC 8-1-2.

Sec. 10. The commission may adopt rules under IC 4-22-2 to implement this chapter.

#### Chapter 4. Interconnection

Sec. 1. As used in this chapter, "interconnection duties" refers to the duties imposed on a telecommunications carrier under:

(1) 47 U.S.C. 251; or

(2) any lawful regulation or order of the Federal Communications Commission.

Sec. 2. The commission's jurisdiction with respect to the interconnection duties of a telecommunications carrier is limited to the authority set forth in this section. The commission may issue and enforce a rule, an order, or a policy concerning the interconnection duties of a telecommunications carrier only to the extent that the rule, order, or policy:

(1) complies with and does not exceed the requirements of:

(A) 47 U.S.C. 251;

(B) any lawful regulation adopted by the Federal Communications Commission; and

(C) any order or ruling of a federal court having jurisdiction; and

(2) does not substantially prevent implementation of the requirements and purposes of 47 U.S.C. 251; as prescribed by 47 U.S.C. 251(d)(3).

Sec. 3. The commission may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 45. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 8-1-2-88; IC 8-1-2-88.5; IC 8-1-2-88.6;

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1 IC 8-1-2-88.7; IC 8-1-2.6-1; IC 8-1-2.6-2; IC 8-1-2.6-3; IC 8-1-2.6-5;  
 2 IC 8-1-2.6-6; IC 8-1-2.6-7; IC 8-1-2.6-8; IC 8-1-2.8-7; IC 8-1-2.9;  
 3 IC 8-1-17-6; IC 8-1-17-21; IC 8-1-17-22; IC 8-1-17-22.5; IC 8-1-18;  
 4 IC 8-1-19.

5 SECTION 46. [EFFECTIVE UPON PASSAGE] (a) As used in this  
 6 SECTION, "commission" refers to the Indiana utility regulatory  
 7 commission created by IC 8-1-1-2.

8 (b) As used in this SECTION, "division" refers to the division of  
 9 consumer protection of the office of the attorney general created  
 10 by IC 4-6-9-1.

11 (c) As used in this SECTION, "telecommunications carrier" has  
 12 the meaning set forth in IC 8-1.6-1-12, as added by this act.

13 (d) Notwithstanding IC 8-1.6, as added by this act, the  
 14 commission may do any of the following before July 1, 2007:

15 (1) Adopt rules under IC 4-22-2 to allow the commission to  
 16 implement, by July 1, 2007, IC 8-1.6, as added by this act.

17 (2) Take any other action necessary to divest itself, by July 1,  
 18 2007, of:

19 (A) any jurisdiction that:

20 (i) is described in IC 8-1.6-2-1(b), as added by this act;  
 21 and

22 (ii) the commission exercises over a telecommunications  
 23 carrier before July 1, 2007; and

24 (B) any of the commission's consumer protection  
 25 responsibilities described in IC 8-1.6-2-2(1), as added by  
 26 this act.

27 (e) Notwithstanding IC 8-1.6, as added by this act, the office of  
 28 utility consumer counselor created by IC 8-1-1.1-2 may, before  
 29 July 1, 2007, take any action necessary to:

30 (1) ensure that the office's responsibilities under IC 8-1-1.1  
 31 with respect to telecommunications carriers are transferred  
 32 to the division beginning July 1, 2007; and

33 (2) otherwise divest itself, by July 1, 2007, of its consumer  
 34 protection responsibilities with respect to telecommunications  
 35 carriers;

36 as required by IC 8-1.6-2-2(2), as added by this act.

37 (f) Notwithstanding IC 8-1.6, as added by this act, the division  
 38 may, before July 1, 2007:

39 (1) adopt rules under IC 4-22-2; and

40 (2) take any other action necessary;

41 to allow it to assume, beginning July 1, 2007, consumer protection  
 42 responsibilities with respect to telecommunications carriers, as

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- 1 required by IC 8-1.6-2-2, as added by this act.
- 2 (g) This SECTION expires January 1, 2008.
- 3 SECTION 47. An emergency is declared for this act.

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